

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In re FORFEITURE OF 53 HORSES.

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIAM EDWIN KASBEN and JANET J.  
BAUMAN,

Claimants-Appellants,

and

EDWIN KASBEN, KRIS KASBEN, JAMES  
HALL, and BARBARA KINTER,

Claimants.

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIAM EDWIN KASBEN,

Defendant-Appellant.

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Before: Owens, P.J., and Saad and Fort Hood, JJ.

PER CURIAM.

We agree with Judge Fort Hood's opinion in all respects except her conclusion that MCL 750.50(5) permits the trial court to order defendant to pay restitution covering the costs of care,

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housing and veterinary medical care of the horses in addition to the civil forfeiture of the horses. We affirm in part and reverse the trial court's order requiring defendant to pay restitution.

The trial court ordered forfeiture of the horses pursuant to MCL 750.50(3).<sup>1</sup> The trial court held the forfeiture hearing and issued the order requiring defendant to forfeit his interest in his horses after final disposition of the criminal case. However, the statute does not require that a civil forfeiture hearing be held or a forfeiture order be issued before final disposition of the criminal proceedings. MCL 750.50(3) merely requires the prosecutor to file the civil action before final disposition of the criminal charge if he chooses to pursue civil forfeiture, and it requires the trial court to conduct the forfeiture hearing "within 14 days of the filing of the civil action, or as soon as practicable." The prosecutor filed the civil action requesting that the trial court order forfeiture of defendant's horses over two months before the final disposition of defendant's criminal charges, and the parties agreed to waive the requirement that the forfeiture hearing be held within 14 days of the filing of the civil action for the sake of judicial economy. The requirements for filing a civil forfeiture action under MCL 750.50(3) were met in this case.

MCL 750.50(5) clearly provides that if forfeiture is not ordered pursuant to MCL 750.50(3), then the trial court may order defendant to pay restitution as part of a sentence for a violation of MCL 750.50(2). Because the trial court ordered forfeiture of the horses pursuant to MCL 750.50(3), MCL 750.50(5) precludes the trial court from ordering defendant to pay restitution as a condition of his sentence. Accordingly, the trial court erred when it required defendant to pay restitution in this case.

Affirmed in part, reversed in part, and remanded. We do not retain jurisdiction.

/s/ Donald S. Owens  
/s/ Henry William Saad

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<sup>1</sup> MCL 750.50(3) states:

If an animal is impounded and is being held by an animal control shelter or its designee or an animal protection shelter or its designee or a licensed veterinarian pending the outcome of a criminal action charging a violation of this section or section 50b, before final disposition of the criminal charge, the prosecuting attorney may file a civil action in the court that has jurisdiction of the criminal action, requesting that the court issue an order forfeiting the animal . . . .